

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JESS JAMES RUTHERFORD, JR.,

Defendant.

CR 13-53-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on August 17, 2016. Defendant admitted that he had violated Standard Condition 6 of his supervised release by failing to inform his probation officer that his employment had been terminated, that he had violated Standard Condition 7 of his supervised release by consuming alcohol, and that he had violated Special Condition 2 of his supervised release by failing to report for urinalysis testing. Judge Johnston found the admissions sufficient to establish the supervised release violations. He recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of 7 months, with no supervised release to follow.

No objections were filed by either party. Judge Johnston's findings

and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted that he violated Standard Conditions 6 and 7, and Special Condition 2. Defendant could be incarcerated for up to 24 months, followed by 24 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of three to nine months. A sentence of seven months in custody, followed by no supervised release is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 52) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 6th day of September, 2016.



Brian Morris
United States District Court Judge